UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

08 2609

ANTHONY FAHME on behalf of himself and all others similarly situated.

EDWARD R. KORMAN

Plaintiff,

MANN, M.

-against-

ALLIANCEONE RECEIVABLES MANAGEMENT, INC.

Defendant.

**CLASS ACTION COMPLAINT** 

#### Introduction

1. Plaintiff Anthony Fahme seek redress for the illegal collection practices of AllianceOne Receivables Management, Inc. concerning the collection of debts, in violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA").

#### **Parties**

- 2. Plaintiff is a citizen of the State of New York who resides within this District.
- 3. Plaintiff is a "consumer" as that term is defined by Section 1692(a)(3) of the FDCPA, in that the alleged debt that defendant sought to collect from plaintiff is a purported consumer debt.
- 4. Upon information and belief, AllianceOne Receivables Management, Inc. is a Delaware corporation which is also an active foreign corporation.
- 5. Defendant is regularly engaged, for profit, in the collection of debts allegedly owed by consumers.

6. Defendant is a "debt collector" as that term is defined by the FDCPA, 15 U.S.C. § 1692(a)(6).

## Jurisdiction and Venue

- This Court has Federal question jurisdiction under 15 U.S.C. § 1692k(d) and 28
   U.S.C. § 1331.
- 8. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), as the acts and transactions that give rise to this action occurred, in substantial part, in this district. Venue is also proper in this district since the defendant transacts business in this district and the collection letter was sent into this district.

## Allegations Particular to Anthony Fahme

- 9. On information and belief, on a date better known by defendant, defendant began attempting to collect an alleged consumer debt from the plaintiffs.
- On or about June 5, 2008 of the defendant's collection representatives left a
  message for the plaintiff.
- 11. The name of the collector is Bob Gray.
- Said message stated as follows: "Anthony. It's Bob Gray. 866-418-2825. 866-418-2825.
   And again, it's Bob Gray. Thank you."
- Said message failed to set forth that the matter was a communication from a debt collector.
- 14. Said message is in violation of 15 U.S.C. § 1692e(10) and 1692e(11) for engaging in deceptive practices and for failing to set forth the required language that the communication was from a debt collector.

## AS AND FOR A FIRST CAUSE OF ACTION

Violations of the Fair Debt Collection Practices Act brought by plaintiff on behalf of himself and the members of a class, as against the defendant.

- 15. Plaintiff restates, realleges, and incorporates herein by reference, paragraphs 1-14 as if set forth fully in this cause of action.
- 16. This cause of action is brought on behalf of plaintiff.
- 17. The class consist of consumers who received a message from the defendant which did not set forth that the call was a communication from a debt collector.
- 18. The Class consists of all persons whom Defendant's records reflect resided in the New York State and who received a telephone message (a) from one of defendant's collection representatives failing to set forth that the message was from a debt collector similar to the message for the plaintiff of June 5, 2008 (b) the message was left concerning the seeking payment of an alleged debt; and (c) that the message contained violations of 15 U.S.C. §§ 1692e(10) and 1692e(11).
- 19. Pursuant to Federal Rule of Civil Procedure 23, a class action is appropriate and preferable in this case because:
  - (A) Based on the fact that telephone messages are at the heart of this litigation, the class is so numerous that joinder of all members is impracticable.
  - (B) There are questions of law and fact common to the class and these questions predominate over any questions affecting only individual class members.
  - (C) The only individual issue is the identification of the consumers who received the letters, (*i.e.* the class members), a matter capable of ministerial determination from the records of defendant.

- (D) The claims of the plaintiff is typical of those of the class members. All are based on the same facts and legal theories.
- (E) The plaintiff will fairly and adequately represent the class members' interests. The plaintiff has retained counsel experienced in bringing class actions and collectionabuse claims. The plaintiff's interests are consistent with those of the members of the class.
- A class action is superior for the fair and efficient adjudication of the class members' claims. Congress specifically envisions class actions as a principal means of enforcing the FDCPA. 15 U.S.C. 1692(k). The members of the class are generally unsophisticated individuals, whose rights will not be vindicated in the absence of a class action. Prosecution of separate actions by individual members of the classes would create the risk of inconsistent or varying adjudications resulting in the establishment of inconsistent or varying standards for the parties and would not be in the interest of judicial economy.
- 21. If the facts are discovered to be appropriate, the plaintiff will seek to certify a class pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure.
- 22. Collection letters, such as those sent by the defendant are to be evaluated by the objective standard of the hypothetical "least sophisticated consumer."

## Violations of the Fair Debt Collection Practices Act

23. The defendant's actions as set forth above in the within complaint violates the Fair Debt Collection Practices Act. 24. Because the defendant violated of the Fair Debt Collection Practices Act, the plaintiff and the members of the class are entitled to damages in accordance with the Fair Debt Collection Practices Act.

WHEREFORE, Plaintiff respectfully request that this Court enter judgment in his favor and on behalf of the members of the class, and against the defendant and award damages as follows:

- (a) Statutory damages provided under the FDCPA, 15 U.S.C. 1692(k);
- (b) Attorney fees, litigation expenses and costs incurred in bringing this action; and
- (c) Any other relief that this Court deems appropriate and just under the circumstances.

Dated: Cedarhurst, New York

June 28, 2008

Adam J. Fishbein, P.C. (AF-9508)

Attorney At Law

Attorney for the Plaintiff

483 Chestnut Street

Cedarhurst, New York 11516

Telephone (516) 791-4400 Facsimile (516) 791-4411

Plaintiff requests trial by jury on all issues so triable.

Adam J. Fishbein (AF-9508)



Document 1 Centre Pointe Drive, suite #16 of 6

Mendota Heights, MN 55120

Please send all correspondence to the above address

Telephone: 1-800-279-3480

Jun 2, 2008

Name: ANTHONY G FAHME

Account Number: FPG124

PIN: 3303

Client Reference Number: 5121079623969505

Client: Citibank (South Dakota) NA

### Our client has authorized us to reduce the balance of your past due account by 50%!

Our client will accept \$ 3982.95 as a settlement

Please follow the instructions outlined:

- Make your money order or check payable to our client.
- Document payment as "Settled".

Upon receipt and clearance of your payment, we will immediately cease collection activity and notify our client that you have satisfied your account. If you have any questions or concerns, please call our office and a representative will assist you.

Telephone 1-800-279-3480

As long as you haven't made other arrangements to repay this debt, you are eligible for this offer. For accounting purposes, your settlement must be received within 30 calendar days after the date on this letter. If you wish to make a payment proposal after that time, please call us to discuss it.

This communication is from a debt collector. This is an attempt to collect a debt, and any information obtained will be used for that purpose.

New York City Department of Consumer Affairs license number is 1265901.

Detach Bottom Portion And Return With Payment >

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P.O. BOX 510477 LIVONIA MI 48151-6477 RETURN SERVICE REQUESTED

Mail return address only; send no letters

S-SDAMFC10 L-075 A-FPG124 O-001 P0IZ8600616519 I16520

ANTHONY G FAHME **42 OLIVER ST BROOKLYN NY 11209-6502** hallmilledellleridenskrikelikeralsbirdellerid To contact us regarding your account, call: 1-800-279-3480

AllianceOne

Regarding						
Citibank (South Dakota) NA						
Client Reference Number	Account Number	Amount				
5121079623969505	FPG124	\$ 7965.89				

CITICORP CREDIT SERVICES, INC. (USA) ALLIANCEONE RECEIVABLES MANAGEMENT INC. PO BOX 21882 EAGAN MN 55121-0882 

Daytime Phone #	
Evening Phone #	

Amount	Paid:	\$

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